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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on 10th July, 1998:—

I

BILL No. LIV of 1997

A Bill to provide for the establishment of a permanent Bench of the High court of Madras at Madurai.

Be it enacted by Parliament in the Forty-eight Year of the Republic of India as follows:—

1. This Act may be called the High Court of Madras (Establishment of a Permanent Bench at Madurai) Act, 1997. Short title.

2. There shall be established a permanent Bench of the High Court of Madras at Madurai and such judges of the High court of Madras being not less than nine in number, as the Chief Justice of that High Court may from time to time nominate, shall sit at Madurai in order to exercise the jurisdiction and power for the time being vested in that High Court in respect of cases arising in the southern districts as decided by the High Court. Establishment of a permanent bench of the High Court of Madras at Madurai.

STATEMENT OF OBJECTS AND REASONS

There had been a president demand of the lawyers and litigants of South of Trichi district and entire Southern districts of Tamil Nadu for setting up a permanent Bench of High Court of Madras at Madurai.

Litigants have to travel more that 700 kms from Kanyakumari to Madras even for small relief in the High Court which involves enormous expenses and man power.

With this laudable object this demand is being made. Even Justice Jaswant Singh in his report recommended for setting up of a High Court Bench at Madurai. The only condition in the report, is the said Bench can be set up after all the infrastructure is provided. On that course the High Court of Madras is delaying in setting up a Bench. But Bench can be set up and function in the existing Court building at Madurai as early as possible.

Hence this Bill.

R. MARGABANDU.

II

BILL NO. LVI OF 1997

A Bill to provide for the establishment of a Permanent Bench of the Supreme Court at Chennai.

BE it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

1. This Act may be called the Supreme Court of India (Establishment of a Permanent Bench at Chennai) Act, 1997.

Short title.

2. There shall be established a permanent bench of the Supreme Court of India at Chennai and such judges of the Supreme Court of India being not less than nine in number, as the Chief Justice of India may from time to time nominate, shall sit at Chennai in order to exercise the jurisdiction and power for the time being vested in that Supreme Court in respect of cases arising in the southern States as decided by the Supreme Court.

Establishment of a Permanent Bench of Supreme Court at Chennai.

STATEMENT OF OBJECTS AND REASONS

There has been a long standing demand for setting up of a permanent Bench of Supreme Court of India at Chennai by the southern States' lawyers and the litigant public. Litigants have to travel from Kanyakumari to Delhi even for small reliefs from the Supreme Court which involves enormous expenses and man power. It is, therefore, felt necessary that certain steps should be taken to minimise the problems of southern States' public litigants.

Hence this Bill.

R. MARGABANDU.

FINANCIAL MEMORANDUM

Clause 2 of the Bill, provides for the establishment of a permanent Bench of the Supreme Court of India at Chennai. The Bill, if enacted and brought into operation, would involve expenditure from the Consolidated Fund of India. It is not possible to estimate, at this stage, the exact amount of expenditure that will be involved. However a non-recurring expenditure of five crore rupees may be involved for the construction of building of the Court etc.

No recurring expenditure is likely to be involved.

III

BILL NO. II OF 1998

A Bill to provide for a fundamental right to housing to the citizens so that every citizen gets an appropriate shelter or dwelling house from the State at affordable price with necessary facilities like drinking water, electricity, sewerage, drainage, road, park etc., and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

Short title and
extent.

1. (1) This Act may be called the Right to Housing Act, 1998.
- (2) It extends to the whole of India.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in the case of a State, the Government of that State and in other cases the Central Government;

(b) "family" includes a citizen, his spouse and dependent children;

(c) "prescribed" means prescribed by rules made under this Act;

(d) "scheme" means scheme formulated under section 4.

3. (1) Notwithstanding anything contained in any other law for the time being in force, every citizen shall have the right to an appropriate housing for him and his family in any part of the territory of India as per his need.

Right to Housing.

(2) It shall be the duty of the appropriate Government to make available, to every citizen, who desires to have, a dwelling house of appropriate size for him and his family under sub-section (1) at affordable prices in such manner as may be prescribed.

(3) The dwelling house to be made available under sub-section (2) shall have all the necessary facilities such as drinking water, electricity, drainage, sewerage, road, park etc. which are necessary for a better and healthy living.

4. The appropriate Government shall formulate a scheme containing such details and requirements, as may be prescribed, for implementation of this Act.

Appropriate Government to make scheme for implementing the Act.

5. The provisions of this Act and of any rule made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, but save as aforesaid, the provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Overriding effect.

6. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

Housing is one of the major problems in our country. Millions of people live in a state of absolute homelessness under the sky. Their living abode are footpath, parks and other open spaces. Similarly millions of people in the country are forced by circumstances to reside in desperately inadequate housing conditions such as small huts, in Jhuggi clusters, one room houses and *kacha* and semi *pucca* hutments which threaten their health, security, safety and dignity. In the urban areas people spend a major part of their earnings on housing.

Every one wants to have a roof over his head. It is the ambition of every citizen to have his own house for which he saves his earnings and tries to have a house. In the process, he is fleeced by property dealers and other anti-social elements. Even housing Boards do not hesitate in exploiting the common man. After applying and depositing huge initial amounts, common man waits for a house to be allotted but his wait becomes desperately longer and longer.

It is now being felt that housing should be made a fundamental right for the citizens so that State may be compelled to provide a dwelling unit of appropriate size with essential services to every citizen at affordable prices. The housing rights are recognised and reaffirmed in all international and regional Covenants. For instance article 11.1 of the International Covenant on Economic, Social and Cultural Rights, mandates that "the State parties to the present Covenant recognise the right of everyone to an adequate standard of living for himself and his family including adequate food, clothing and housing.....and that State parties will take appropriate steps to ensure the realisation of this right."

Since our country is a ratifying State to this Covenant, it is under a legal obligation to provide adequate housing to the citizens. Even otherwise, though there may not be a domestic law compelling the State to make available house to the homeless but the Supreme Court has nevertheless accepted the right to housing by interpreting in an innovative way article 21 of the Constitution and holding that the right to life would take within its sweep, the right to food and reasonable accommodation to life in. But in the absence of a law, this right cannot be directly enforced. Hence a law has become a necessity to enforce the international commitment and the ruling of the apex Court of the Country and fulfil the wishes of crores of people of the Country.

Hence this Bill.

SAROJ KHAPARDE.

FINANCIAL MEMORANDUM

Clause 4 of the Bill stipulates that the appropriate Government shall formulate a Scheme for the implementation of the provisions of this Bill. The Bill, if enacted and brought into force, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees one thousand crores may involve as recurring expenditure per annum.

Non recurring expenditure to the tune of rupees one hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is, of therefore, of normal character.

IV

BILL No. XI OF 1998

A Bill to provide for the prevention of sexual harassment of women employees at their work places by their employers, superiors, colleagues or by any one connected with the work place and matters connected therewith.

BE it enacted by Parliament in the Forty-ninth year of the Republic of India as follows:—

1. (1) This act may be called the Prevention of Sexual Harassment of Women Employees at their work Places Act, 1998.

Short title, extent and commencement.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

2. In this Act, unless the Context otherwise requires,—

Definitions.

(a) "appropriate Government" means in relation to the Centrally owned undertakings or departments, the Central Government and in relation to the other undertakings and departments, the State Government;

(b) "employer" means—

(i) in relation to an establishment which is under the control of the appropriate Government, a person or authority appointed by the appropriate Government for the supervision and control of employees or where no person or authority is appointed the head of the department;

(ii) in relation to an establishment under any local authority, the person appointed by such authority for the supervision and control of employees or where no person is so appointed the Chief Executive Officer;

(iii) in any other case, the person who or the authority which, has the ultimate control over the affairs of establishment or house and where such affairs are entrusted to any other person whether called a Manager, Managing Director, Managing agent or by any other name, such person;

(c) "sexual harassment" includes any unwanted verbal or gestural sexual advances, sexually explicit and derogatory statements or remarks, avoidable physical contacts, touching or patting, suggestive remarks, sexually slanted and obscene jokes, comments about physical appearance, compromising invitations, use of pornographic material, demands for sexual favours, threats, innuendoes, physical assault and molestation of and towards women workers by their male superiors, colleagues or any one who for the time being is in a position to sexually harass the women workers;

(d) "Women" means and includes a women employed, whether directly or through any agency, for wages or for similar other considerations in any establishment, house or industry;

(e) "work place" means—

(i) a factory;

(ii) a mine;

(iii) a plantation;

(iv) an agricultural field;

(v) a hospital or nursing home;

(vi) a shop or business establishment;

(vii) a brick kiln;

(viii) a construction site;

(ix) any banking establishment;

(x) any Government, semi Government establishment or department including telegraph office, post office, telephone exchange etc;

(xi) any private office or house;

(xii) any school, college, university or like institution;

(xiii) an establishment wherein persons are employed for exhibition of equestrian, acrobatic and other performances;

(xiv) any other such place where a women is employed for any work whatsoever.

Punishment for sexual harassment of a women.

3. Notwithstanding anything contained in the Indian Penal Code or any other law for the time being in force whoever sexually harasses a woman at a work place shall be punished with simple imprisonment for a term which may extend to five years or with fine which may extend to twenty thousand rupees or with both.

45 of 1860.

Burden of proof.

4. Notwithstanding any thing contained in any other law for the time being in force the onus of proving the innocence shall be on the accused and the sexually harassed woman shall have the right to lead evidence in rebuttal.

5. Notwithstanding anything contained in any other law for the time being in force if an act of sexual harassment is committed at a work place the supervisor, manager and managing director shall have the joint responsibility towards the commission of sexual harassment in the organisation and section 34 of the Indian Penal Code shall be made, applicable in their case:

Joint responsibility of the employer in the offence of sexual harassment at a work place.

Provided that if the harassed woman absolves the supervisor, manager or managing director no action shall be taken against them under this Act.

6. Notwithstanding anything contained in any other law for the time being in force the case of a sexually harassed woman at a work place shall be pleaded either by herself or with her consent by women's organisation or the trade union of which she is a member.

Pleading the case of harassed woman worker.

7. The trial of an offence committed under this Act shall be held in camera if the harassed woman so desires.

Trial to be held in camera.

STATEMENT OF OBJECTS AND REASONS

Women are nearly fifty per cent of the population of India. In almost every field of economic activity women form a large part of the work force. The number of working women is increasing everyday. At the work place women are compelled to work in the most disadvantageous service conditions. They are harassed sexually at the work place by their male colleagues, bosses, employers and others. Cases of sexual harassment of women at the work places occur but more often these are not reported for fear of social ostracism, family pressure or reprisal in the form of threats and discriminatory treatment. Though this offence like physical assault and molestation has been made punishable under the Indian Penal Code, yet working women feel insecure since all aspects of sexual harassment are not covered by that Code. Recently the Supreme Court of India too had directed the Government to enact legal provisions so as to prevent the sexual harassment of working women. Though the Central Government has amended the conduct rules to cover this aspect for Government employees, the law is yet to be enacted for the private sector. Accordingly an urgent need is felt to deal with the situation more stringently. The Bill therefore take care of the offences related to sexual harassment of women at the work place.

Hence this Bill.

KAMLA SINHA.

V

BILL NO. XII OF 1998

A Bill to provide for the protection of the homebased workers in the country and for matters connected therewith.

Enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Homebased workers (Protection) Act, 1998.

Short title, extent and commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

2. In this Act unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means in the case of a State, the State Government and in other cases the Central Government;

(b) "Board" means the National Tripartite Board established under section 3 of this Act;

(c) "contractor" means any person who either as an independent contractor or agent of a contractor or sub-contractor who contracts or engages any homebased worker either for himself or for somebody else to produce a given product for an establishment or a person;

(d) "employer" means the person who has the ultimate control over the affairs of the establishment and who is the principal employer of such establishment;

(e) "establishment" means any place or premises, including precincts thereof in which any small scale industry, trade business or manufacture is being or is ordinarily, carried on;

(f) "homebased worker" means any person employed in connection with the work of any establishment who produces a given product at the place of his residence;

(g) "prescribed" means prescribed by rules made under this Act;

(h) "wages" means all remunerations payable to a homebased worker in respect of the work done by him.

Establishment
of National
Tripartite
Board.

3. (1) The Central Government shall establish a National Tripartite Board which shall consist of the representatives of the appropriate Government, the representatives of the employers including the contractors and the representative of the homebased workers:

Provided that the representatives of the homebased workers shall be nominated by their national trade Union Centres.

(2) The Board shall formulate national policy in regard to the homebased workers and suggest ways and means for protection of their rights.

Duties of the
Board.

4. (1) The Board shall entertain complaints of the homebased workers in respect of their conditions of work or service or their welfare benefits under this Act.

(2) It shall exercise such powers as may be prescribed from time to time.

Chief
Commissioner
for homebased
workers.

5. (1) The Central Government shall, by notification in the Official Gazette, appoint a Chief Commissioner for homebased workers.

(2) The appropriate Government shall by notification in the Official Gazette, appoint Assistant Commissioner for homebased workers for a State or the Union Territory as and when necessary to do so.

(3) The Chief Commissioner and Assistant Commissioner appointed under this Act shall be deemed to be public servants.

(4) The Chief Commissioner and Assistant Commissioners of homebased workers shall exercise such powers and functions as may be prescribed from time to time.

Functions of
the Chief
Commissioner
and Assistant
Commissioner.

6. Every Commissioner for homebased workers appointed under this Act shall,—

(a) maintain a block and district wise register of homebased workers with such particulars and in such manner as may be prescribed;

(b) maintain a block and district wise register of employers employing homebased workers;

(c) issue identity card to every homebased worker;

(d) make a survey of homebased workers from time to time.

7. (1) No employer, unless he has registered himself with the appropriate Government shall engage any homebased worker.

Punishment for unregistered employer and prohibition of employing unregistered homebased worker.

(2) If an unregistered employer engages any homebased worker he shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to ten thousand rupees or with both.

(3) No employer shall engage any homebased worker who has not registered himself with the Chief Commissioner or Assistant Commissioner for homebased workers.

8. (1) Every employer shall pay to a homebased worker minimum wages as may be fixed by the Board from time to time.

Minimum wages for homebased workers.

(2) The minimum wages if fixed on a piece rate basis, shall not be less than the wages fixed on time basis.

(3) The time taken by a homebased worker for coming to employer or contractor for raw material and depositing the finished product shall also be taken into account in calculation of wages.

9. The appropriate Government shall formulate a mutual pension-cum-provident Fund Scheme for the homebased workers which shall be implemented by the Chief Commissioner for homebased workers.

Pension-cum-Provident Fund Scheme.

10. If any homebased worker dies while working, his dependents shall be paid compensation as may be prescribed, by the appropriate Government out of the scheme created under Section 9 depending upon the age and length of service of the deceased:

Compensation for death while working.

Provided that the compensation shall not be less than ten thousand rupees.

11. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing powers, the rules may provide for the—

(a) terms and conditions of service of the homebased workers;

(b) maternity benefits for the female homebased workers;

(c) health insurance cards for homebased workers;

(d) creches for the children of homebased workers;

(e) payment of layoff wages by the employer if he is unable to give work to the homebased worker on account of bad weather, shortage of raw material and such other circumstances.

STATEMENT OF OBJECTS AND REASONS

The number of homebased workers in the country is increasing. They are not protected by labour laws and do not enjoy the benefits of welfare legislation. Whether piece-rated or time-rated, this makes such workers vulnerable to the whims of employers. Often, the work is done through contractors, and it becomes impossible to identify the principal employer. Quite often, the nature of their labour is disguised in the form of a sale purchase agreement.

This Bill seeks to ensure the regularity and continuity of employment for homebased workers and to protect their rights, wages, and working conditions, and provide welfare benefits.

Hence this Bill.

KAMLA SINHA.

FINANCIAL MEMORANDUM

Clause 3 provides for the establishment of a National Tripartite Board. Clause 5 provides for the appointment of Chief Commissioner and Assistant Commissioners. Clause 9 provides for the Pension-cum-Provident Fund Scheme. The Bill, if enacted and brought into operation will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees Fifty Crores per annum will be involved as recurring expenditure.

A non recurring expenditure of rupees Twenty crores is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 provides for the rule making power of the Central Government for carrying out the purposes of this Bill. The rules will relate to the matters of details only. The delegation of legislative power is of normal character.

VI

BILL NO. XIII OF 1998

A Bill to abolish capital punishment for women, children and infirm persons.

Be it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Abolition of Capital Punishment for Women, Children and Infirm Persons Act, 1998.

Short title, extent
and commence-
ment.

(2) It extends to the whole of India.

(3) It shall come into force at once.

2. In this Act, unless the context otherwise requires,—

Definitions.

(1) "capital punishment" includes sentence of death passed by a court of law or any other authority including the conventional village Panchayats or tribal groups and tribal heads, or 'sati' performed under a customary law, witch-killings or killing by any means permitted under any custom or established rural or tribal usages;

(2) "child" means any child below the age of fifteen years and includes a girl child;

(3) "infirm" includes any person who is too old, weak or ailing, including those suffering from any infirmity of body or mind.

Abolition of
capital
punishment for
women,
children and
infirm persons.

3. Notwithstanding anything contained in any other law, custom or usage, for the time being in force, capital punishment, in any form, for the women, children and infirm persons is hereby abolished.

STATEMENT OF OBJECTS AND REASONS

It has been observed that vulnerable sections of the society, the women, the children and the infirm continue to be subject of various types of exploitations, including sexual exploitation and abuse and are often placed in circumstances wherein they are forced to commit crimes attracting severe penalties including death penalty. Various customary, religious and tribal laws also often provide for death penalties for offences like "adultery" and practising "witch-craft".

A circumstance or situation can hardly be conceived when the persons belonging to weaker sex, children or the infirm would commit such a crime without enough provocation as to attract the penalty of Death.

In a recent case, taken up by the National Commission for Women, presumably the first of its kind over decades, possibly since independence a woman was sentenced to death, to be "hanged till death". It would only be proper to abolish death penalty for such vulnerable sections as women, children or the infirm persons.

Hence this Bill.

VEENA VERMA.

R.C. TRIPATHI,
Secretary-General.

